

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

PETER JAMES SMITH,)	
)	
Plaintiff,)	
)	
v.)	CIV. ACT. NO. 2:19-cv-212-ECM
)	(WO)
HUMANA INC.,)	
)	
Defendants.)	

MEMORANDUM OPINION and ORDER

Now pending before the court is the Report and Recommendation of the Magistrate Judge (doc. 16) which recommends that this case be dismissed with prejudice for the Plaintiff's failure to prosecute and failure to abide by the orders of this Court as well as the Amended Complaint's failure to state a claim upon which relief can be granted. On March 5, 2020, the Plaintiff filed objections to the Recommendation. (Doc. 19).

When a party objects to a Magistrate Judge's Report and Recommendation, the district court must review the disputed portions *de novo*. 28 U.S.C. § 636(b)(1). The district court "may accept, reject, or modify the recommended disposition; receive further evidence; or resubmit the matter to the magistrate judge with instructions." FED.R.CIV.P. 72(b)(3). *De novo* review requires that the district court independently consider factual issues based on the record. *Jeffrey S. ex rel. Ernest S. v. State Bd. of Educ.*, 896 F.2d 507, 513 (11th Cir. 1990). *See also United States v. Gopie*, 347 F. App'x 495, 499 n.1 (11th Cir. 2009). However, objections to the Magistrate Judge's Report and Recommendation must be sufficiently specific in order to warrant *de novo* review. *See Macort v. Prem, Inc.*, 208

F. App'x 781, 783-85 (11th Cir. 2006). Otherwise, a Report and Recommendation is reviewed for clear error. *Id.*

The Court has reviewed the Plaintiff's objections wherein he reiterates his complaints against Humana. He objects to the Report and Recommendation without any specificity and without stating the bases for his objections. Despite the lack of specificity in the Plaintiff's objections meriting review only for clear error, the Court undertook a *de novo* review of Plaintiff's objections and finds that they are due to be overruled even under that more stringent standard of review.

The Plaintiff does not point to any error committed by the Magistrate Judge, but instead re-offers a recitation of the claims made in his complaint and amended complaint. Although the Plaintiff attempts to re-state his allegations, those attempts fail for the same reasons set forth by the Magistrate Judge in the Report and Recommendation. Even if the Plaintiff had succeeded in sufficiently clarifying his claims in his objection, a party may not amend a pleading in this manner. The Magistrate Judge afforded the Plaintiff multiple chances to amend his complaint to cure its deficiencies, and the Plaintiff failed to properly avail himself of those opportunities. The Court finds that the well-reasoned Recommendation of the Magistrate Judge effectively addresses all of the Plaintiff's claims.

Accordingly, for the reasons as stated and for good cause, it is

ORDERED as follows:

1. The Plaintiff's objections (doc. 19) are OVERRULED;
2. The Recommendation of the Magistrate Judge (doc. 16) is ADOPTED; and
3. This case is DISMISSED with prejudice.

A final judgment will be entered.

DONE this 23rd day of March, 2020.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE